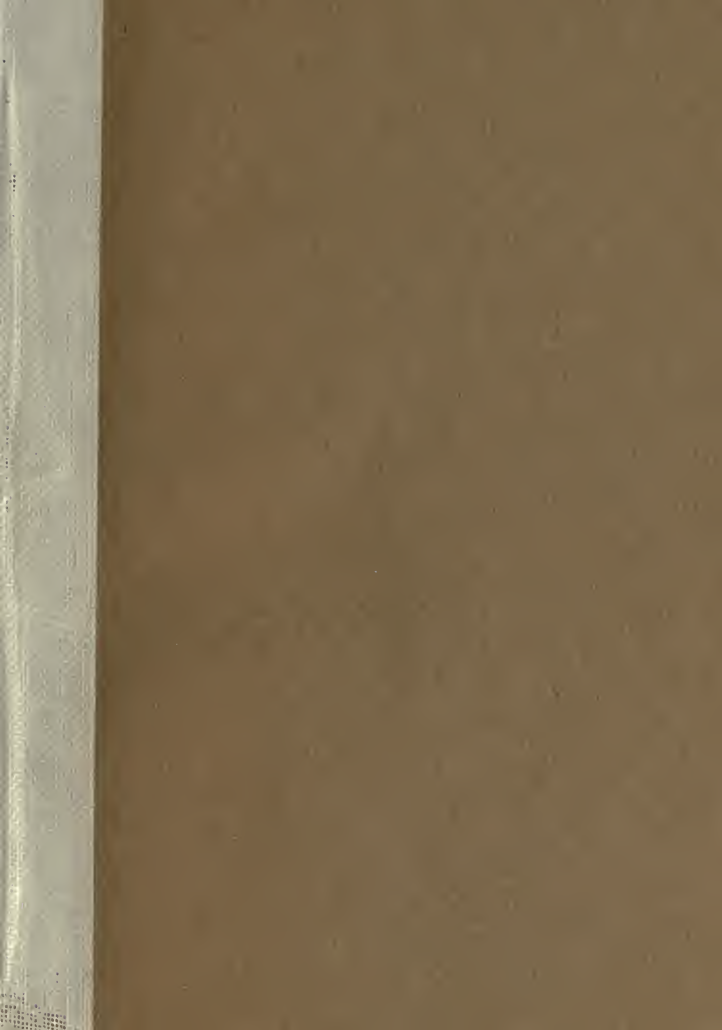


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Palestine, California
FORM *Grant Lodge*

FOR

RECORDS OF TRIALS

AND

TRANSCRIPTS THEREOF.

1872.

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FORM FOR RECORDS OF TRIALS. X

TO THE LODGES UNDER THE JURISDICTION

OF THE GRAND LODGE F. & A. M. OF CALIFORNIA.

When our present Constitution went into effect, in the year 1859, it was thought by the committee who prepared it and by the Grand Lodge which adopted it, that the provisions relative to trials for Masonic offences, as set forth in Part VI of that instrument, and especially in Article IV of that Part, were sufficiently plain and explicit to ensure a proper manner of conducting and a correct method of recording the proceedings at such trials. Plain and explicit, however, as those provisions then appeared, and still seem to be, it is nevertheless the fact that a very large number, perhaps more than a majority, of the transcripts of trial-records which come up to the Grand Lodge are deficient, imperfect, or incorrect in many respects, too numerous to be here set forth, as the object of this paper is to point out how such business *should be* transacted and recorded by the Lodges—not how it has *not* been done—and as a brief review of the reports of the Committees on Grievances during eight or ten years past will show how many cases have been remanded to the Lodges for new trials, with the reasons for such action. Under these circumstances, to spare the Grand Lodge and its committees

much time and labor, and to aid the Lodges in the avoidance of the annoyance and loss of time consequent upon so many second trials of the same cases, it was ordered at a late Communication that a committee be appointed to prepare a suggestive form for the guidance of the Masters, Secretaries, and Commissioners of Lodges in the proceedings incident to trials for unmasonic conduct and in the records and transcripts of the records thereof.

The committee named, in obedience to that order, have endeavored to perform the duty assigned them, and now present the following suggestions—for as suggestions only are they to be offered until approved by the Grand Lodge—for the consideration of the officers of Lodges within the jurisdiction of the Grand Lodge of California:—

1st. Section 1, Article IV, Part VI, of the Constitution, defines with absolute precision the manner in which charges of unmasonic conduct are to be preferred against a brother, and it is only necessary to note at this point that they are, as is written in that section, to be presented to the *Master*, and *not* to the Lodge, as it appears is often erroneously done.

2d. The charge itself should be a general one of unmasonic, or gross unmasonic, conduct, and should be defined in a specification or in specifications following, setting forth with clearness and precision the offence or offences complained of, and giving time, place, and all

necessary particulars relating thereto as distinctly as possible, so that the accused may have full knowledge of all that he may be called upon to explain, disprove, or justify. The following may be used as a general form for a

CHARGE OF UNMASONIC CONDUCT.

_____, Cal. _____, 18—. To the Master of _____ Lodge, No.—, F. and A. M.

Worshipful Sir and Brother:

The undersigned, a Master Mason in good standing and a member of _____ Lodge No.—, at _____, in the State of _____, does hereby charge Bro. A— B—, a Mason now residing (*or said to be residing*) at _____, in the State of _____, with unmasonic (*or gross unmasonic*) conduct, as set forth in the following specifications:

First. That on or about the _____ day of _____ 18—, he did (*here state the offence as particularly as may be practicable.*)

Second, That on or about the _____ day of _____ 18—, he did, &c. (*here again state the specification.*)

Third, That on or about, &c., (*following with as many specifications as there are distinct offences charged.*)

For all which the undersigned desires that the said A— B— may be brought to trial and dealt with in such manner as our Masonic laws provide.

Respectfully and Fraternally,

C— D—.

Should the charge be directed to be preferred by the Lodge or Master, it should be done by the Junior Warden, as he is supposed to have charge of the Craft during the period when not at labor, and the first portion of the first paragraph above should then read—

The undersigned, a Master Mason in good standing and Jun-

ior Warden of this Lodge, does hereby, by direction of the Lodge (*or of the Master thereof,*) charge Bro. A——B——, etc.

3d. The Master should carefully examine the charge and specifications, and, if they are evidently frivolous, or if the acts with which the accused is charged are clearly such as do not constitute a Masonic offence, he may refuse to entertain them. But, should it appear otherwise and it is known to him that the accuser is a Master Mason in good standing, he is to call a special meeting of his Lodge as soon as practicable, (*see Sec. 2, Art. IV. Part VI.*) by due notification to every member thereof whose residence is known and is within such distance as may reasonably permit him to attend; which notification should state that the purpose of the meeting is to elect Commissioners to try a brother (*using no name*) upon a charge of unmasonic conduct, should be in writing or in print, and should be served personally, if possible, by the Tyler or some brother designated for the purpose, or, if it be not possible so to serve it, should be left at his ordinary residence or place of business or be sent by mail. The following is proposed as a form of such

NOTIFICATION TO MEMBERS.

Hall of———Lodge, No.—F. & A. M.

At———, Cal.———, ——, 18—.

Bro. E——— F———,

You are hereby notified to attend a special meeting of this Lodge to be holden on the———day of———, 18—, at———o'clock—M, for the purpose of electing Commissioners to try a brother upon a charge of

unmasonic conduct preferred against him by a Master Mason in good standing.

By order of the Master,

[SEAL.]

G———— H————, Secretary.

4th. At such special meeting the Master will announce its purpose, as before recited, mentioning no name either of accuser or accused, and will ascertain, by a vote of the Lodge, the number of Commissioners (*not less than seven nor more than nine, see Sec. 2, Art. IV, Part VI,*) which it shall deem proper to elect. Each member present will write the names of as many members of the Lodge upon one ballot as shall correspond with the number of Commissioners determined upon, and, upon counting the ballots, such members as shall be found to have received a majority of all the votes cast, shall be declared elected as Commissioners. In case the full number should not be elected on the first ballot, another ballot will be had for the remainder in the same manner, and again and again, if necessary, until the full number of Commissioners shall have been elected, each by a majority of the votes of those present. (*See Sec. 2, Art. IV, Part VI.*)

5th. The Master will then name the time and place for the first meeting of the Commissioners, keeping in view the provisions of Sections 2 and 3, Art. IV, Part VI, relative to the convenience of the parties and the time allowed to the accused for appearance, and will direct the Secretary to notify each Commissioner of his election and of such time and place of meeting, either

in person or in writing. The following may be a form for such

NOTIFICATION TO A COMMISSIONER.

Hall of _____ Lodge, No.—F. & A. M.

At _____, Cal. _____, _____, 18—.

Bro. I— J—,

You are hereby notified that, at a special meeting of this Lodge held on the _____ day of _____, 18—, you were elected to be one of _____ Commissioners designated to try a certain charge of unmasonic conduct preferred against a brother by a Master Mason in good standing, and that a meeting of said Commissioners, for that purpose, will be held at _____, on the _____ day of _____, 18—, at — o'clock — M.

By order of the Master,

[SEAL.]

G— H—, Secretary.

6th. The Master, at the same meeting, will direct the Secretary to prepare for his signature a summons for the accused to appear for trial at the time and place before named, which summons, when properly signed and authenticated, shall be served in the manner prescribed in Sec. 2, Art. IV, Part VI; and he will also direct the Secretary to prepare a copy of the charge and specifications, (*the original of which will be handed him for that purpose,*) and to properly certify it, under seal, and transmit it to the accused with the summons. The following is proposed as a form for a

SUMMONS TO AN ACCUSED BROTHER.

Hall of _____ Lodge, No.—, F. & A. M.

At _____, Cal. _____, _____, 18—,

Bro. A— B—,

You are hereby summoned to appear at _____ on _____ the _____ day of _____ 18—, at

———o'clock——M., there and then to answer to a certain charge of unmasonic conduct preferred against you by Bro. C——— D———, a Master Mason in good standing, a certified copy of which is hereunto annexed.

Given at the place and on the day first above wirtten,
[SEAL.] as witness my hand and the seal of our Lodge, with the attestation of our Secretary.

Attest : K——— L———, Master.
G——— H———, Secretary.

7th. The summons should be issued in duplicate, one copy to be delivered or transmitted to the accused, and the other to be presented to the Commissioners, with a proper certificate of service appended thereto, It is usual that the Secretary or Tyler perform such service, but it may be done by any brother whom the Master may designate. The following may be a form for such

CERTIFICATE OF SERVICE.

I, ——, Secretary, (*or Tyler, or a member*) of this Lodge, hereby certify that I duly served the annexed summons upon Bro. A—— B——, at —— on the —— day of —— 18——, by delivering to him in person (*or leaving at his place of business, or leaving at his place of residence, or mailing to his last known place of abode,*) the duplicate thereof, together with a certified copy of the charge and specifications which accompanied the summons.

M—— N——.

8th. The Master, at the same meeting, will direct the Secretary to notify the accuser of the time and place

of meeting of the Commissioners for the trial of his charge, and the following may be the form of such

NOTIFICATION TO AN ACCUSER.

Hall of———Lodge, No.—, F. & A. M.

At———, Cal.———, ——, 18——,

Bro. C——— D———,

You are hereby notified that the Commissioners elected by this Lodge to try a certain charge preferred by you against Bro. A——— B———, will assemble at———, on ——, the———day of———at———o'clock,——M., for that purpose.

By order of the Master,

[SEAL.]

G——— H———, Secretary.

9th. The Record Book of the Lodge, for the special meeting called for the election of Commissioners, should be written in substantially as follows, with such variations, of course, as the facts may require ; and a copy of this record from the Lodge Book will form the first portion of the transcript to be sent to the Grand Lodge.

FORM OF RECORD,

At a meeting for election of Trial-Commissioners.

Hall of———Lodge, No.—F. & A. M.

At———, Cal. ——, —— 18——.

By order of the Master, of which due notification was given to the brethren, this Lodge was specially convened at the place and on the day above written, at———o'clock——M., and there were present the following :

(Here give the names and titles of the officers, and the number of other members present, referring for their names to the Tyler's Register.)

A Lodge of Master Masons having been duly opened, the Master stated that this special meeting had been called for the pur-

pose of electing Commissioners to hear and determine upon a certain charge of unmasonic conduct preferred by a Master Mason in good standing against a brother of this Lodge (*or of some other Lodge, naming it, or, if a non-affiliated Mason, saying so,*) and desired that the Lodge should indicate the number of Commissioners which it deemed advisable to elect.

On motion, duly seconded, it was voted that the number of Commissioners be——.

The Master appointed Bros. O—— P—— and Q—— R—— to act as tellers, and the Lodge proceeded to ballot for Commissioners.

At the conclusion of the———ballot it was found that the following named brethren had each received a majority of the votes of the members present, viz :

(*Here give the names in full of the Commissioners elected.*)

And they were declared by the Master to be duly elected to serve as Commissioners.

The Master named——, the——day of——, 18——, at——o'clock—M. at the Lodge room, (*or such other place as he may designate*) as the time and place for the first meeting of the Commissioners, and directed the Secretary to notify each of them of his election and of the time and place of meeting a above.

The Master also directed the Secretary to prepare, for his signature, a summons to the accused to appear at said time and place before the Commissioners, and handed the charge to the Secretary with instructions that a certified copy thereof, under seal of the Lodge, be made and transmitted to the accused with said summons.

The Master also directed the Secretary to notify the accuser of said time and place of meeting of the Commissioners.

The business being thus concluded, the Lodge was closed.

Approved : G—— H——, Secretary.

K——L——, Master.

10th. The Master will issue summonses for witnesses at the request of either the accuser or the accused, and the following may be the form of such

• SUMMONS TO A WITNESS.

Hall of———Lodge, No.—, F. & A. M.,

At———, Cal., ———, ———, 18—.

Bro. S——— T———,

You are hereby summoned to appear at
——— on ——— the ——— day of———, 18—, at—
o'clock, — M., there and then to testify in relation to a certain
charge of unmasonic conduct preferred by Bro. C——— D———
against Bro. A——— B———.

Given at the place and on the day first above written,
[SEAL.] as witness my hand and the seal of our Lodge
with the attestation of our Secretary.

Attest: K——— L———, Master.

G——— H———, Secretary.

11th. The Commissioners will assemble at the place and time directed by the Master. The Master and Secretary of the Lodge will also be present and will remain present until the conclusion of the trial. (*See Sections 4 and 8, Article IV, Part VI.*) No chairman is to be elected, as appears often to be done in plain contravention of the law, but the Master will preside throughout. The Master will state the purpose for which the Commission is assembled. The names of the Commissioners elected will be called by the Secretary, and those found present, as well as the Master and himself, will be noted upon the record. If a majority of the Commissioners be present the trial may proceed, (*See Decision 4, Page 381, Vol. IV, Proceedings*), or

they may adjourn to some future time. (*See Sec. 7, Art. IV, Part VI.*)

12th. The Commission being ready to proceed, the Master will cause the charge and specifications to be read by the Secretary, and also the summons to the accused, with the certificate of service thereof, all which should appear upon the record. The fact that the accuser was duly notified should also appear, and the record should likewise show whether both or either were present. If counsel appears for either accused or accuser, as is allowed by our law, (*See Sec. 6, Art. IV, Part VI,*) that fact also should find proper place in the record; and, if there be objection to any of the Commissioners, the reasons for the objection may at this time be stated, and the Master should decide as to their validity.

13th. The accused should now present his answer to the charge and specifications, which answer may be either oral or written, and should be made a part of the record. In this answer he may make a general or particular denial of all the specifications of the charge; or he may deny some and admit others, and may make statements in justification or extenuation of those admitted; or he may admit all, with expressions of sorrow for his misconduct; or, in fact, he may make any answer which to him, or his counsel, shall seem best.

14th. The testimony will then be received in the manner prescribed in Sec. 5, Art. IV, Part VI, of the Con-

stitution, and it will be better that all oral testimony be first received and recorded, if not too inconvenient. All oral testimony, direct and cross, will be written out in full by the Secretary ; and, when each witness giving such testimony shall have concluded, his testimony shall be read to him, and, after such corrections as he may wish to make, shall be signed by him in the presence of the Commissioners. The documentary testimony will be presented in the manner and in the order prescribed in the section of the Constitution last referred to, and will in such order be made a part of the record, unless it should appear that the direct connection of some portion of it with some portion of the oral testimony would better present a clear history and understanding of the case.

15th. As will be seen in Sec. 5, Art. IV, Part VI, authority may be given to the Master of another Lodge to take the testimony of a Mason residing within the jurisdiction of his Lodge. In such case the following may be a form for such

LETTER OF AUTHORIZATION.

Hall of ——— Lodge, No. —, F. & A. M.

At ———, ———, ———, 18—,

To the Worshipful U ——— V ———,

Master of ——— Lodge, No. —, F. & A. M.,

At ———, County of ———. Cal.

A charge of unmasonic conduct having been preferred in this Lodge by Bro. C ——— D ———, a Master Mason in good standing, against Bro. A ——— B ———, a member of ——— Lodge, No. —, at ———, a copy of which charge, with the specifications, is herewith transmitted ; and. the testi-

mony of Bro. W—— - X——, a member (*or a Mason residing within the jurisdiction*) of your Lodge, being deemed important at the trial of said charge, you are hereby authorized and requested to take the testimony of the said Bro. W—— X—— upon such matters as either the accuser or the accused, or both, may indicate in the paper (*or papers*) herewith annexed, and to make return thereof to me as early as may be possible.

Given at the place and on the day first above written,
[SEAL.] as witness my hand, the seal of our Lodge, and the attestation of our Secretary.

Attest: K—— L——, Master.
G—— H——, Secretary.

It should not be forgotten that when either party desires to have testimony taken elsewhere than before the Commissioners, notice thereof must be given to the other party.

16th. The testimony taken upon an authorization, such as the foregoing, should be written out precisely in the same manner, with question and answer, as though taken before the Commissioners; and, after being so written out and signed by the witness, should be attached to and be returned with the authorization, accompanied with the following

CERTIFICATE.

I do hereby certify that the foregoing pages numbered from — to — inclusive, contain the full, true and perfect deposition of Bro. W—— X——, taken by me under and by virtue of the annexed authorization.

U—— V——

Master of——Lodge, No. ---.

17th. Should the Commissioners, by permission of the Master for good reasons shown, (*See Sec. 7, Art. IV, Part VI,*) extend the period of their sittings beyond ten days, the fact that such permission had been given and the reasons therefor should appear at the proper place or places in the record.

18th. The testimony being all received, the Commissioners will proceed to deliberate upon their verdict and sentence. The Master and Secretary will both remain with them, (*See Sec. 8, Art IV, Part VI,*) the first having no vote, but having authority to decide any point of Masonic law or usage which may arise, and the last having only to keep a full and correct record of the proceedings. After sufficient consultation and deliberation, a vote for "guilty" or "not guilty," by ballot, (*See Decision 4, Page 381, Vol. IV, Proceedings*) should be taken upon each specification, and each such vote should be recorded. A majority of all the Commissioners elected are requisite to find a verdict of "guilty." (*See decision above given.*) Should the accused thus be found guilty of one or more of the specifications, the Commissioners will proceed to vote, by ballot, upon the sentence, and a majority of all the Commissioners elected will be required to adjudge it, whatsoever it may be. (*See decision above.*) The vote will first be upon the question by the Master—"Shall the accused be expelled?"—and the ballots should have written upon them "aye" or "no." Should there not be the requisite majority for expulsion, the question will next be—

“ Shall the accused be suspended ? ”—and it will be decided in the same manner. Should there not be the required majority for suspension, the last question will be—“ Shall the accused be reprimanded ? ”—and it will be decided like the others. All this should be recorded.

19th. The trial being ended the Secretary will, as soon as possible, under the supervision of the Commissioners, make a fair copy of the record and finding, which is to be signed by all the Commissioners who acted in the case, attested by the Secretary, and handed to the Master ; and he, at the next stated meeting of the Lodge, in the presence of its members only, will announce the finding and sentence, (if there be any sentence,) and direct the Secretary to record the same as the judgment of the Lodge, and to file the record of trial among its archives. (*See Sec. 8, Art. IV, Part VI,*) It would be well that this be the last business done at such meeting, as visitors may then be requested to retire ; and the following may be a form for entry in the record-book of such

RECORD OF FINDING.

All other business being concluded and there being present only members of this Lodge, the Master presented the record of the trial of Bro. A—— B——, by the Commissioners elected on the — —, 18—, and announced that he had been found guilty upon one (or two, or all) of the specifications in the charge of unmasonic conduct preferred against him, and had been sentenced to expulsion (or suspension) from all the rights and privileges of Masonry, (or *to reprimand in open*

Lodge.) Or, that he had been found not guilty upon all the specifications of the charge of unmasonic conduct preferred against him.

20th. The transcript of the record of trial, mentioned in Sec. 10, Art. IV, Part VI, will be a copy of the proceedings of the Lodge at the election of Commissioners, of the record of proceedings before the Commissioners, as hereinbefore directed to be kept, and of the announcement of the result in the Lodge, as suggested in the next preceding paragraph. It should be written plainly on cap paper, fastened at the upper end, and should be certified by the Secretary with the seal of the Lodge.

21st. It should be remembered (*See Sec. 10, Art. IV, Part VI*), that in *all* cases of expulsion or suspension, whether there be an appeal or not, a transcript must be sent to the Grand Secretary; but that in cases of reprimand or acquittal such transcript is only necessary when the proper notice of appeal has been given; and it should not be overlooked that the law requires such transcripts to be sent immediately after the trial.





